

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at WINCHESTER

JERRY GREGORY,

Plaintiff,

v.

GOODMAN MANUFACTURING
COMPANY, L.P.,

Defendant.

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Case No. 4:10-cv-23

Judge Mattice

ORDER

Plaintiff Jerry Gregory brought this action against Defendants Goodman Manufacturing Company, L.P. pursuant to 29 U.S.C. § 1132(c)(1), which requires a plan administrator to provide plan documents within 30 days upon request by a participant or beneficiary of the plan.

Before the Court is Defendant's Motion for Summary Judgment [Court Doc. 19]. Pursuant to 28 U.S.C. § 636(b)(1), the Court referred this matter to United States Magistrate Judge William B. Mitchell Carter for a Report and Recommendation ("R&R") on Plaintiff's motion. Magistrate Judge Carter entered his R&R [Court Doc. 31] on May 2, 2011. Magistrate Judge Carter recommended that Defendant's Motion be granted as to the amount of benefits to which Plaintiff was entitled because Plaintiff no longer contested the amount. Magistrate Judge Carter recommended that the Motion be denied as to Plaintiff's claim that Defendant is subject to the \$110 per day penalty assessed for failure to comply with 29 U.S.C. § 1132(c)(1). Neither party filed objections within the given 14 days.

After reviewing the record, the Court agrees with Magistrate Judge Carter's report

and recommendation. The Court thus **ACCEPTS** and **ADOPTS** Magistrate Judge Carter's findings of fact, conclusions of law, and recommendations pursuant to § 636(b)(1) and Rule 72(b).

The Court **ORDERS** that Defendant's Motion for Summary Judgment [Court Doc. 19] is **GRANTED IN PART** to the extent that the amount of benefits to which Plaintiff is entitled has been resolved. Defendant's Motion is **DENIED IN PART** as to Plaintiff's claim for the \$110 daily penalty to which Defendant could be subject by virtue of its failure to provide Plaintiff with the plan documents upon his request. The Court further **ACCEPTS** and **ADOPTS** Magistrate Judge Carter's conclusion that if Plaintiff is entitled to the \$110 daily penalty for Defendant's failure to provide the plan documents, the effective statute of limitations is one year.

SO ORDERED this 23rd day of May, 2011.

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE